



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/150439

PRELIMINARY RECITALS

Pursuant to a petition filed July 01, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance, a hearing was held on July 24, 2013, at Kenosha, Wisconsin.

The record was held open until July 31, 2013 to give Petitioner an opportunity to submit all of her husband's paystubs from January 2013 through June 2013. The paystubs have been marked as Exhibit 10 and entered into the record.

The issue for determination is whether the Kenosha County Human Service Department (the agency) correctly terminated Petitioner's BadgerCare+ benefits effective July 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services

1 West Wilson Street

Madison, Wisconsin 53703

By: Karen Mayer, Fair Hearing Representative

Kenosha County Human Service Department

8600 Sheridan Road

Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.

2. On June 4, 2013, Petitioner completed a renewal. (Exhibit 9)
3. On June 5, 2013, the agency sent Petitioner a notice indicating that as of July 1, 2013, her healthcare benefits would be ending, because the household income was over the program limits. (Exhibit 2)
4. On June 19, 2013, the agency sent Petitioner a notice indicating that as of August 1, 2013, her healthcare benefits would be ending, because the household income was over the program limits and because she had not paid a premium. (Exhibit 3)
5. On June 27, 2013, the agency sent Petitioner a notice indicating that as of July 1, 2013, her healthcare benefits would be ending, because the household income was over the program limits. (Exhibit 4)
6. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on July 1, 2013. (Exhibit 1)
7. There are four people who live in Petitioner's household, but her assistance group consists of three people, herself, her husband and her grandson. Petitioner's 21 year-old son is not included in the assistance group. (Testimony of Petitioner)
8. During the first quarter of 2013, Petitioner's husband earned \$11,580.16 and during the second quarter he earned \$15,102.60. (Exhibits 8 and 10) This averages out to be \$4,447.13 per month ($\$11,580.16 + \$15,102.60 \div 6$).

DISCUSSION

BadgerCare Plus (BC+) is a state/federal program that provides health coverage for Wisconsin families. *BadgerCare + Eligibility Handbook (BEH) §1.1.1*. In order for adult caretakers to be financially eligible for BadgerCare+ benefits, the household income must be below 200% the Federal Poverty Level and all available gross income must be counted. *BEH §16.1*.

It is the agency's contention that Petitioner's household income exceeds 200% of the Federal Poverty Level. Petitioner disagrees.

Petitioner's husband is the sole source of income for the household. Looking at Petitioner's husband's pay stubs, it does appear that his income fluctuated from a low of \$1626.60 to a high of \$2512.11 (See Exhibit 10) "If the amount or frequency of regularly received income is known, average the income over the period between payments. If neither the amount nor the frequency is predictable, do not average; count income only for the month in which it is received." Averaging Petitioner's husband's income over the six month certification period ending June 30, 2013, his gross income was \$4,447.13 per month. (See Exhibits 8 and 10)

200% of FPL for a group of three people is \$3255.00 per month and for four people it is \$3925.00 per month. *See BEH §50.01* Petitioner's household income of \$4,447.13 is over the 200% FPL program limit. Consequently, the agency correctly terminated Petitioner's BadgerCare+ benefits effective July 1, 2013.

It should be noted that the agency alluded to Petitioner having access to insurance through her husband's employer. If Petitioner had access to health insurance at the time of her renewal/review and the premium did not exceed 9.5% of her monthly income (\$422.48 per month), she would not have been eligible for BadgerCare+ benefits, as there is no good cause for not enrolling in a health insurance plan with current access. *See BEH §7.3.3*

CONCLUSIONS OF LAW

The agency correctly terminated Petitioner's BadgeCare+ benefits effective July 1, 2013.

THEREFORE, it is

ORDERED

That the Petition be dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

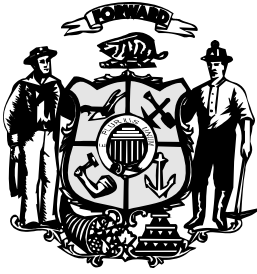
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 16th day of August, 2013.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 16, 2013.

Kenosha County Human Service Department
Division of Health Care Access and Accountability